

ITEM NO.12

COURT NO.4

SECTION IIA

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl)...../2011  
(CRLMP.NO(s). 11368)

(From the judgement and order dated 11/02/2011 in CRLA No.  
162/2003 of The HIGH COURT OF CHATTISGARH AT BILASPUR)

KEJABAI & ANR Petitioner(s)

VERSUS

STATE OF CHHATISGARH Respondent(s)

CRLMP.NO(s). 11368 (for exemption from surrendering with office  
report)

Date: 01/06/2011 This Petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE G.S. SINGHVI  
HON'BLE MR. JUSTICE CHANDRAMAULI KR. PRASAD  
(VACATION BENCH)

For Petitioner(s) Mr.Fakhruddin, Sr.Adv.  
Mr.Raj Kishor Choudhary, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following  
O R D E R

This petition is directed against the judgment of the  
learned Single Judge of the Chhattisgarh High Court, paragraphs  
and 10 of which are extracted below: 9

"9. Minute examination of the evidence of the  
witnesses makes it very clear that there is  
no cogent and legally admissible evidence on  
record to establish the exact date of  
marriage of the deceased with the  
accused/appellant No.3. On the contrary the  
witnesses have stated that the marriage of  
the deceased was solemnized with the accused/  
appellant No.3 about 7-8 years back. Thus the  
basic ingredients for convicting a person  
under Section 304-B IPC that death of a woman  
is caused by any burns or bodily injury or

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occurs otherwise than under normal  
circumstances within seven years of marriage  
and it is shown that soon before her death  
she was subjected to cruelty or harassment by  
her husband or any relative of her husband in  
connection with demand of dowry are totally  
amiss in this case. Considering all these  
aspects of the case in respect of the date of  
marriage, it is difficult to say that the  
marriage of the deceased was solemnized with  
the appellant No.3 within seven years of her  
death. More so, there is no concrete  
evidence on record to show that soon before  
death the deceased was subjected to cruelty

or harassment by the appellants and, therefore, it will not be safe for this court to convict the accused/appellants under Section 304-B of the Indian Penal Code and therefore, they are acquitted of the said charge. However, in respect of offence Section 498-A IPC, there is ample evidence on record to show that the deceased was subjected to cruelty as defined under Section 498-A IPC and, therefore, their conviction under Section 498-A IPC is maintained. However, the conviction under Section 304-B IPC is set-aside. Accused/appellants are acquitted of the said charge.

10. As regards sentence, looking to the peculiar facts and circumstance of the case and that the incident had taken place in the year 1999, this Court is of the considered opinion that it would be in the interest of justice if the sentence imposed on him is reduced to imprisonment for six months instead of 2 years as has been done by the Court below. Order accordingly."

We have heard learned counsel for the petitioners and perused the record. In our view, the concurrent findings and conclusion recorded by the trial Court and the learned Single Judge of the High Court holding the petitioners guilty of offence under Section 498-A IPC do not suffer from any legal infirmity and the impugned judgment does not call for interference because the High Court has already reduced the sentence from two years to six months.

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The special leave petition is accordingly dismissed.

As a sequel to the above, Criminal Miscellaneous Petition No.11368/2011 for exemption from surrendering is rejected.

(Satish K.Yadav)  
Court Master

(Phoolan Wati Arora)  
Court Master